

REMARKS

Claims 1-7 are pending in this application after this Amendment. Claims 1, 6, and 7 are independent. In light of the amendments and remarks contained herein, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections.

In the outstanding Official Action, the Examiner rejected claims 1, 2, and 6 under 35 U.S.C. §103(a) as being unpatentable over *Moorman* (U.S. Patent No. 5,041,911) in view of *Ueno et al.* (U.S. Patent No. 5,625,415); rejected claim 3 under 35 U.S.C. §103(a) as being unpatentable over *Moorman* in view of *Ueno et al.* and further in view of *Takanashi et al.* (U.S. Patent No. 6,313,923); and rejected claims 4 and 5 under 35 U.S.C. § 103(a) as being unpatentable over *Moorman* in view of *Ueno et al.* and further in view of *Kadowaki* (Japanese Publ. No. 08-202325 A). Applicant respectfully traverses these rejections.

Claim Rejections - 35 U.S.C. § 103 -
Moorman/Ueno et al.

In support of the Examiner's rejection of claim 1, the Examiner admits that *Moorman* fails to teach or suggest a luminance range designating device that designates one of the gradations in the gradation area divided image displayed on the display unit. The Examiner relies on the teachings of *Ueno et al.* to cure the deficiencies of the teachings of *Moorman*, asserting *Ueno et al.*

discloses providing the user the ability to select an area of the pre-shot image for which to base the exposure value on. Applicant maintains that these teachings are insufficient to cure the deficiencies of the teachings of Moorman.

With regard to Fig. 7, *Ueno et al.* discloses area indication 700 and area button 306 that allows a user to identify an area to be measured by an area metering. The area processing unit produces the area information designating a range within a frame of the area indication 700. The processing unit 208 practices waiting for the individual pieces of area information in accordance with the operational information recognized by the input processing unit 200. The input processing unit 200 sets up a size of the area indication 700 to be formed in accordance with the operational information recognized by the input processing unit 200. The area processing unit 208 informs the display processing unit 206 of the produced area information and in addition transmits the image data corresponding to the produced area information to the photometric processing unit 210 (col. 9, lines 30-52).

In contrast, the present invention as set forth in claim 1 recites, *inter alia*, an image capturing apparatus comprising a luminance range designating device that designates one of the gradations in the gradation area divided image displayed on the display unit. *Ueno et al.* clearly teaches that a user can select an area of the image framed by the area indication 700. Upon selection

of an area, all of the image data corresponding to the produced area information is sent to the photometric processing unit for processing. This teaching is insufficient to teach or suggest a luminance range designating device that designates one of the gradations in the gradation area divided image displayed on the display unit. The present invention set forth in claim 1 allows for designation of one of the gradations in an image that has been divided into gradation areas. *Ueno et al.* clearly teaches that additional processing must take place with the information included in the area indication 700. However, in the case of the present invention, the area has already been divided into gradation areas and one of the gradations is designated in the gradation area divided image.

As such, Applicant maintains that the teachings of *Ueno et al.* are insufficient to cure the deficiencies of the teachings of *Moorman*, assuming these references are combinable, which Applicant does not admit. As the cited references fail to teach or suggest all of the claim elements, Applicant maintains that claim 1 is not obvious over the references as cited.

In addition to the above argument, Applicant maintains that the references are not properly combinable. The disclosure of *Moorman* is directed to an exposure metering system that maps electrical signals into a desired metric for display according to the exposure of individual pixel values of a focused image. In

contrast, the disclosure of *Ueno et al.* is directed to a processing apparatus that calculates an exposure value from image data representative of a pre-shot image on the basis of a user selected area. In other words, the user selection of an area as disclosed in *Ueno et al.* takes place pre-shot and prior to when the mapping of *Moorman* takes place. As such, Applicant maintains that the references are not properly combinable as asserted by the Examiner. Further, Applicant maintains that one of ordinary skill in the art would not be motivated to make the purported combination as asserted by the Examiner based upon the teachings of the references. For all the reasons set forth above, Applicant maintains that claim 1 is patentable over the references as cited.

It is respectfully submitted that claims 2-5 are allowable for the reasons set forth above with regard to claim 1 at least based upon their dependency on claim 1. It is further respectfully submitted that claim 6 and new claim 7 contain elements similar to those discussed above with regard to claim 1 and, thus, these claims are allowable over the references as cited for the reasons set forth above with regard to claim 1.

Claim Rejections - 35 U.S.C. § 103 -
Moorman/Ueno et al./Takanashi et al.

With regard to the Examiner's rejection of claim 3, the Examiner asserts that the only important aspect of *Moorman* is the displaying of colors based on luminance values. The Examiner

concludes it would have been obvious to only display the contours of the image in *Moorman* so that the image processing does not have to be performed, thus reducing the processing load. Applicant respectfully disagrees with the Examiner's motivation provided.

There is no teaching or suggestion in *Moorman* that is directed to displaying any portion of the image. While *Takanashi et al.* may disclose displaying a contour, the generation of a contour image in *Moorman* would require additional processing. As such, the disclosures of the cited references teach away from the purported combination as additional processing would need to take place, namely, the generation of a contour in *Moorman*. For at least these reasons, Applicant maintains that claim 3 is not obvious over the references as cited.

**Claim Rejections - 35 U.S.C. § 103 -
*Moorman/Ueno et al./Kadowaki***

With regard to claim 4, the Examiner now asserts that *Kadowaki*, in combination with *Moorman* and *Ueno et al.*, renders claim 4 obvious. Applicant respectfully disagrees with these assertions.

Applicant maintains that the teachings of *Kadowaki* are insufficient to cure the deficiencies of the teachings of *Moorman* and *Ueno et al.* *Kadowaki* discloses that an area 31 is specified and then the user may select and change or mix the color of the specified area. However, these teachings are insufficient to teach

or suggest wherein the luminance range designated device is constructed in such a manner as to select one color from color samples displayed on a screen of the image display unit. As *Kadowaki* fails to teach or suggest this claim element, Applicant maintains that *Kadowaki* fails to cure the deficiencies of the teachings of *Moorman* and *Ueno et al.* and, thus, claim 4 is not obvious over the references as cited.

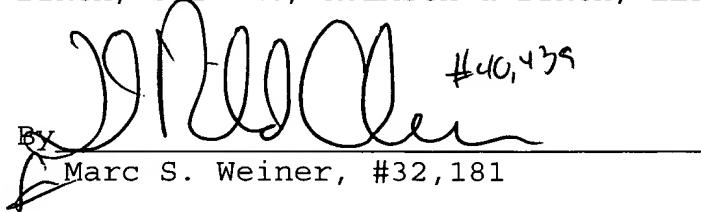
Conclusion

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Catherine M. Voisinet (Reg. No. 52,327) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP


By _____
Marc S. Weiner, #32,181

c
MSW/CMV/jdm
0879-0249P

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000